

MISC.CIVIL APPLICATION NO. 1813 OF 1992.

Date of decision: 6.12.1995.

For approval and signature

The Honourable Mr. Justice S. M. Soni

and

The Honourable Mr. Justice R. R. Jain

Mr. R. V. Desai, advocate for petitioner.

Mr. R.C. Jani, advocate for respondent.

1. Whether Reporters of Local Papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Coram: S.M. Soni & R.R. Jain, JJ.

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December 6, 1995.

Oral judgment (Per Soni, J.)

Learned advocates for the parties are absent.

Petitioner has filed this application for necessary action under the Contempt of Courts Act alleging disregard and disobedience of the order passed by the

Authority under the Payment of Wages Act.

The Authority under the Payment of Wages Act, in Application No.566/91 ordered payment of wages stated therein by its order dated 10.2.1992. As the amount is not paid, this application is filed.

The Supreme Court in the case of the Alahar Co-operative Credit Service Society v. Sham Lal, reported in 1995 (2) GLH, 550, has held that contempt proceeding is not a substitute for execution. Sub-section (5) of Section 15 of the Payment of Wages Act provides mode of recovery. In other words, it can be said that recovery of the amount determined and awarded under the Payment of Wages Act is by way of fine by the Magistrate or by the Authority who determines the same through the Magistrate on a proper application. When such a provision is made for recovery, this court would not like to entertain this application under the Contempt of Courts Act.

In view of the above fact, we would not like to exercise our discretion in this matter and propose to drop the proceedings. Hence, proceedings are dropped. Rule discharged. No order as to costs.